



**ARTICLE 2 – Membership In The Ward Committee**

*Section A:* The Ward Committee shall consist of those persons who have been elected to represent divisions who have been duly seated as members of the said committee; other persons who shall be appointed to fill vacancies in the Ward Committee, in accordance with these Rules; and the City Committeeman, who need not have been elected to represent a division.

*Section B:* Any members of a Ward Committee, who during his membership, has changed his registration from Republican to any other party, shall forthwith cease to be a member of the said Committee. \* \* \* Any member of the Ward Committee who during the year misses three (3) meetings, without justifiable cause, may be removed from membership by the City Committeeman; however such actions may be appealed to the Organization and Contest Committee.

*Section C:* Two committeemen shall be elected to represent each division in the City; however, the City Committeeman from each ward may appoint as many assistant committeemen as the needs of the division require.

7. Additionally, under Rule II, Article 3, entitled “Membership in the City Committee” it provides in pertinent part that the “City Committee shall consist of *a representative from each of the Wards* in the City and County of Philadelphia, elected in accordance with these Rules \* \* \*.”
8. Moreover, under Rule III, concerning election of officers, provides in pertinent part

**ARTICLE I – Elections of Members of the Ward Committee**

Two Committeemen shall be elected from each division in the city in the Spring Primary Election, in each even numbered year, to represent each said division in the Ward Executive Committee. \* \* \*.

**ARTICLE 2 – Election of City Committeeman (Ward Leader) and Ward Officers.**

*Section A:* The City Committeeman and all officers of the Ward Committee shall be elected at the time the new Ward Committee is organized on the third Monday succeeding the Primary Election, unless otherwise provided for in these Rules. The officers of the Ward Committee shall be the Chairman, Vice-Chairman, Secretary, Treasurer and Sergeant-At-Arms. Assistant Committeemen shall have no right to vote for the City Committeeman and Ward Officers.

The City Committeeman shall have no right to vote for Ward Committee Officers or upon any other matter requiring a vote of the ward committee, except to break a tie.

9. Additionally, under Article XVI of the Code, at 25 P.S. § 3242, entitled "Organization of Political Committees" mandates that a political party committee cannot receive or make disbursements of campaign funds unless the committee has *both* a chairman and a treasurer. The provisions of Article XVI, commonly known as the Campaign Finance Reporting Law, was enacted in 1978, as compared to the majority of the Code which was enacted in 1933.
10. The Code also exempts the treasurer of any "regularly constituted party committee of any political party" from authorization of a candidate for public office to spend funds on behalf of the candidate and additionally, under 25 P.S. § 3241(l) distinguishes a PAC from a political party committee.
11. The Code, under 25 P.S. § 2687(a), authorizes the political party to designate up to three persons in a general election to serve as "Poll Watchers" (candidates are allowed to have up to two) and furthermore authorizes the compensation of the Poll Watcher for his services One Hundred Twenty Dollars (\$120.00) per diem. Such monies is conventionally known as "Street Money" or by its modern day appellation "Election Day Expenses." Street Money was traditionally raised by the city committee and disbursed among the ward committees. (The state committees were traditionally paid for all campaign handouts of statewide candidates).
12. However, examination of the Cycle 6 30-day Post Election or Cycle 7 Annual Report campaign finance reports filed by the Pennsylvania State Republican Committee over the past three years indicate that at no time has the State Republican Committee made any contributions to a county or ward Republican committee for any purposes whatsoever.
13. Moreover, examination of the Cycle 6 30-day Post Election or Cycle 7 Annual Report campaign finance reports filed by the Republican City Committee over the past three years indicates that at no time as the Republican City Committee made any contributions to the 59th Republican Ward Executive Committee, although it has made token contributions to the 59th Republican Ward Leader, in the declining amounts of \$1,000 in 2003, \$400 in 2004, and no funds whatsoever in 2005, and no funds to date in 2006.
14. The absence of payments to the 59th Republican Ward Executive Committee and declining payments to the 59th Republican Ward Leader is an act of omission caused by the financial downward spiral of the Republican City Committee. Examination of the Cycle 6 30-day Post Election and Cycle 7 Annual Report campaign finance reports filed by the Philadelphia Democratic City Committee (the "Democratic City Committee") indicates contributions to the 59th Democratic Ward Executive Committee and/or the 59th Democratic Ward Leader in the amounts of \$6,250 in 2003 (a mayoral election year), \$2,500 in 2004, and \$3,250 in 2005. In other words, because of the Republican City Committee's dire straits, the 59th Republican Ward Executive Committee received over the past three years only 10.6% of

what the 59th Democratic Ward Executive Committee received.

15. The 59th Republican Ward Executive Committee, after years of stagnation, was reorganized this past June 5, 2006 in accordance with the Republican City Committee rules upon the election of two Republican committee persons. For the first time in recent history, the 59th Republican Ward Executive Committee elected the chairman and treasurer as mandated by the Code and a secretary which is mandated by the Associations Code, 15 Pa.C.S. § 5732.
16. The 59th Republican Ward Executive Committee moreover realizing that due to the Republican City Committee's downward spiral, it was constrained and its only reasonably objective alternative was to self-help itself in order to bootstrap its campaign and electioneering activities throughout the 59th Ward.
17. In furtherance of this objective, the 59th Republican Ward Executive Committee has organized the Oktoberfest of Germantown, a bi-partisan "meet and greet" candidates night to which the voters are granted free admission and provided complimentary "beer & burgers" courtesy of the candidates, and to pay for the Oktoberfest of Germantown as well as to finance its campaign and electioneering activities, the 59th Republican Ward Executive Committee is selling tickers from \$750 to \$1,000 for the Smorgasbord dinner that precedes the public event.
18. The 59th Republican Ward Executive Committee also resolved that it would distribute the net proceeds of the Oktoberfest of Germantown as street money to other Republican Ward Executive Committees if in compliance with 25 P.S. § 3242 and registered with the Secretary of the Commonwealth under 25 P.S. § 3444, otherwise the street money would go to individual Republican committee persons.
19. The 59th Republican Ward Executive Committee also resolved that it would allow individual Republican committee persons in other wards to access the campaign management software and online voter database which the 59th Republican Ward Executive Committee is acquiring and also provide custom-tailored sample ballots generated by Personalized Enterprise Communications publishing software.
20. At no time has the 59th Republican Ward Executive Committee consulted or obtained any advice, instructions, or assistance from the Republican City Committee, State Republican Committee, or any campaign committee of any Federal or state candidate for public office in respect to any contributions relative its plans for the Oktoberfest of Germantown, the acquisition of the campaign management software and online voter database services, or the Personalized Enterprise Communications publishing software.
21. The 59th Republican Ward Executive Committee has its own budget, enters into its own contractual arrangements with product and service providers, and exercises its discretion solely by its duly elected officers, and it has not obtained, because it is not required the consent of the Republican City or State Republican Committees.
22. The 59th Republican Ward Executive Committee has already commenced the registration process with the Federal Election Commission by filing this date the FEC Form 1, sent by overnight delivery.

**Advisory Opinion Requested**

1. Whether the 59th Republican Ward Executive Committee is independent pursuant to 11 CFR § 110.3(b)(3), as elaborated upon under AO 1978-9 and AO 1999-4.

**Request for Expedient Consideration**

Appreciating that expedited consideration is not required under 2 U.S.C. § 437f(a)(2), the 59th Republican Ward Executive Committee nonetheless requests the Commission to expedite its consideration of this Advisory Opinion Request so that the 59th Republican Ward Executive Committee can continue its proffer of an invitation for the Vice President of the United States to attend the aforementioned Oktoberfest of Germantown and otherwise engage in effective advocacy during the General Election campaign for 2007.

**Legal Analysis**

The applicable provision is 11 CFR § 110.3(b)(3) which pointedly sets aside two criteria, to determine which a local or district political committee overcomes the presumption that it is affiliated with its superior county or state political party committee, by

“(i) The political committee of the party unit in question has not received funds from any other political committee established, financed, maintained, or controlled by any party unit; and

“(ii) The political committee of the party unit in question does not make its contributions in cooperation, consultation or concert with, or at the request or suggestion of any other party unit or political committee established, financed, maintained, or controlled by another party unit.”

The answer to both points are purely factual. The 59th Republican Ward Executive Committee has not received any funds from the Republican City Committee. While the Ward Leader is the Ward Executive Committee’s “representative” on the City Committee, he is not a legally mandated officer under the Pennsylvania Elections Code, at 25 P.S. § 3242, and legally cannot disburse funds on behalf of a political committee, as section 3242(a) specifically provides that “All money received and disbursed by a political committee *must be done through the treasurer* of the committee.” (Emphasis added).<sup>1</sup>

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<sup>1</sup> Parenthetically speaking, the 59th Republican Ward Executive Committee does not foresee any reasonable possibility of receiving any money whatsoever due to the Republican City Committee’s inability to reverse its downward spiral, hence the need for the 59th Republican Ward Executive Committee and all other ward executive committees to self-help themselves.

Likewise, the 59th Republican Ward Executive Committee does not cooperate, consult, act in concert, or at the request or suggestion of the Republican City or State Republican Committee.

As was with the facts in AO-1789-9 citing that Iowa statutes which authorized the establishment of state and county committees; instantly, the Pennsylvania Election Code authorizes establishment of state and county committees who by their own rules may further subdivide themselves into additional sub-units. Moreover, the Code implicitly recognizes under the Campaign Finance Reporting Law the existence of the hundreds of ward and municipal political party committees, by not limiting, i.e., exemptions from candidate authorizations to only state or county committees authorized under other (and older) sections of the Election Code, but specifically recognizes under 25 P.S. § 3243, the existence of “any state, county, city, borough, township, ward or other regularly constituted party committee of any political party. . . .”

However, as is usually the case, decisional law more so than statutory law, articulates more accurately the actual practice. The Pennsylvania courts routinely treat the ward executive committee as a separate legal entity from its city or county committee. Pennsylvania’s intermediate appellate court which handles all Election Code matters, the Commonwealth Court specifically affirmed in *In re Freeman*, 115 Pa.Cmwlth. 300, 309 n. 6, 540 A.2d 606, 610 n. 6 (1988) what nonetheless was generally held, that a ward committee, as compared to its superior county committee, would nonetheless be granted standing to be a party in a legal proceeding, the dispute being whether a particular ward committee could intervene in the instant proceedings.

Even more so is the seminal authority of *Bentman v. Seventh Ward Democratic Executive Committee*, 421 Pa. 188, 196, 218 A.2d 261, 266 (1966), where the state Supreme Court reversed long standing precedent by holding that insofar as a political party performs statutorily-imposed public functions and to the extent that its actions constitute state action, internal organization of such political party is a matter of such concern to public as to make it subject to constitutional limitations and judicial restraint. The Supreme Court, without questioning the right of the ward executive committee to litigate independent of the county committee, judicially intervened in the affairs of the ward executive committee by restoring two committee persons the ward executive committee had previously removed. The rationale behind its holding that

“[C]ertain party offices, including that of party committee, are now filled through the same electoral process and under state statutory authority as public offices, except that voting for party offices is restricted to qualified electors of the party.... [T]he relationship between political parties, the government and the public has become such that, in many areas, the public interest is not only directly affected by political parties but such parties actually perform public functions imposed upon them by law. *Id.* 421 Pa. at 194, 196, 218 A.2d at 265-66 (emphasis in original).

And see also *In re Ganzman*, 133 Pa.Cmwlth. 33, 37, 574 A.2d 732 734 (1990).

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In conclusion, Pennsylvania decisional law specifically affirms what Pennsylvania statutory law implicitly provides in the 1933 version of the Election Code and specifically acknowledges in the 1978 campaign finance reporting amendments, that in Pennsylvania there are three separate independent levels of the political party — one for the state, one for the county or city, and one for the ward or municipality.

We submitted this AOR to outside counsel for legal review, and in the interest of judicial economy, and for the just, speedy and inexpensive adjudication of this AOR, we were advised to proceed *pro se*, as the facts and Pennsylvania law are relatively straight forward.

Thank you very much for your consideration in this matter.

Respectfully,



Chairman

cc: State Republican Committee counsel  
File



"Peter J. Wirs"  
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08/30/2006 02:55 PM

To arothstein@fec.gov  
cc  
Subject FYI

Amy and Esa: The Bylaws are attached, Committee of Seventy link is as follows:

<http://www.seventy.org/index.html>

**Hon. Peter J. Wirs**

*Chairman*

**59th Republican Ward Executive Committee - City of Philadelphia**

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PJWirs@peterjwirs.com Philadelphia Republican City Committee Bylaws.pdf

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## **RULES OF THE REPUBLICAN PARTY OF THE CITY AND COUNTY OF PHILADELPHIA**

**NAME:** The official name of the Republican organization in the City and County of Philadelphia, shall be The Philadelphia Republican City Committee.

## **RULE I**

### **QUALIFICATIONS TO VOTE FOR PARTY CANDIDATES AND TO HOLD PARTY OFFICE**

#### **ARTICLE I – Qualifications To Vote For Party Candidates.**

Any qualified elector, who is duly registered to vote in Philadelphia as a member of the Republican Party, shall be entitled to vote for Republican candidates for party office, and for delegates to conventions.

#### **ARTICLE 2 – Qualifications To Hold Party Office.**

Only qualified electors shall be entitled to be nominated, elected or chosen as members of any Party committee, or as delegates to any Party convention, or to any party office.

## **RULE II**

### **ORGANIZATION OF THE PARTY**

#### **ARTICLE I – Party Organization**

The organization of the Party shall consist of the following:

- 1) Republican Ward Committees, hereinafter referred to as Ward Committee(s).
- 2) The Republican City Committee, hereinafter referred to as “City Committee”.

#### **ARTICLE 2 – Membership In The Ward Committee**

**Section A:** The Ward Committee shall consist of those persons who have been elected to represent divisions who have been duly seated as members of the said committee; other persons who shall be appointed to fill vacancies in the Ward Committee, in accordance with these Rules; and the City Committeeman, who need not have been elected to represent a division.

**Section B:** Any members of a Ward Committee, who during his membership, has changed his registration from Republican to any other party, shall forthwith cease to be a member of the said Committee. Any members who, during such term of membership, shall have been proven, after a full hearing before the Organization and Contest Committee, to have supported directly or indirectly, any candidate or candidates on an opposing ticket at any election, may lose his membership in the said Committee. Any member of the Ward Committee who during the year misses three (3) meetings, without justifiable cause, may be removed from membership by the City Committeeman; however such actions may be appealed to the Organization and Contest Committee.

**Section C:** Two committeemen shall be elected to represent each division in the City; however, the City Committeeman from each ward may appoint as many assistant committeemen as the needs of the division require.

### **ARTICLE 3 – Membership in the City Committee**

The City Committee shall consist of a representative from each of the Wards in the City and County of Philadelphia, elected in accordance with these Rules, and all officers of the City Committee.

## **RULE III**

### **ELECTIONS AND OFFICERS**

#### **ARTICLE I – Elections of Members of the Ward Committee**

Two Committeemen shall be elected from each division in the city in the Spring Primary Election, in each even numbered year, to represent each said division in the Ward Executive Committee. Said committeemen shall serve for a term of two years to commence on the third Monday succeeding their election.

#### **ARTICLE 2 – Election of City Committeeman (Ward Leader) and Ward Officers.**

Section A: The City Committeeman and all officers of the Ward Committee shall be elected at the time the new Ward Committee is organized on the third Monday succeeding the Primary Election, unless otherwise provided for in these Rules. The officers of the Ward Committee shall be the Chairman, Vice-Chairman, Secretary, Treasurer and Sergeant-At-Arms. Assistant Committeemen shall have no right to vote for the City Committeeman and Ward Officers. The City Committeeman shall have no right to vote for Ward Committee Officers or upon any other matter requiring a vote of the ward committee, except to break a tie.

Section B: The City Committeeman and ward officers shall hold office for two years until the Third Monday succeeding the next Primary Election at which the members of the Ward Committee are elected.

#### **ARTICLE 3 – Election of Officers of the City Committee.**

All officers of the City Committee shall be elected on the fourth Wednesday succeeding the Primary Elections at which the members of the Ward Committee are elected, unless otherwise provided for in these Rules.

The City Chairman and all officers of the City Committee shall hold office for two years until the Fourth Wednesday succeeding the next Primary Election at which the members of the Ward Committee are elected. The Officers of the City Committee shall be: Chairman, (hereinafter referred to as "City Chairman"). First Vice-Chairman, Second Vice-Chairman, Honorary Vice-Chairman, Secretary, Assistant Secretary, Treasurer, Assistant Treasurer, General Counsel, and Associate General Counsel. All of the said officers must be elected except the General Counsel, Associate General Counsel and Assistant Treasurer, who shall be appointed by the Chairman. All of the said officers must be City Committeemen except the Chairman, the Honorary Vice-Chairman, who shall be of the female sex, the General Counsel, Associate General Counsel, and Assistant Treasurer. Elected or appointed officers who are not City Committeemen shall have no right to vote upon any matter coming before the City Committee.

## **RULE IV**

### **PROCEDURE IN ORGANIZING WARD AND CITY COMMITTEES**

#### **ARTICLE I – Procedure in Organizing the Ward Committee.**

Section A: On the third Monday evening, succeeding the Primary Election at which members of the Ward Committee are elected, at the time and place designated by the then Ward Chairman, all persons claiming the right to membership in the Ward Committee shall meet to organize the new Ward Committee, unless the newly elected members of the Ward Committee are unable to obtain their certificates of election to the Ward Committee by twelve o'clock noon of the said third Monday. In such event, the meeting of the Ward Committee shall be postponed until the Monday evening following the delivery of the certificates of nomination to those entitled to receive the same.

Section B: The last preceding City Committeeman of the Ward shall be the presiding Chairman at the organizing of the new Ward Committee. If he is not present, then the last preceding Ward Chairman shall preside.

Section C: The Chairman who conducts the meeting for organizing the new Ward Committee shall proceed in regard to the acceptance of certificates of nomination, seating the parties claiming membership in the Ward Committee against whom no contest has been filed, and the appointment of acting, secretaries, sergeant-at-arms, and tellers, in the same manner as provided for in the organization of the City Committee.

Section D: Failure on the part of any Ward Committee to organize at the prescribed time and to elect a City Committeeman shall constitute a vacancy in the office of City Committeeman from the Ward. In such cases, the election of a city Committeeman, as well as the organization of the Ward Committee, shall be referred to the Committee on Organization of the City Committee. This failure shall not be considered as a contest nor prevent the organization of the City Committee.

Section E: At the organization meeting, the City Committeeman shall first be elected, next the Ward Chairman and then the remaining officers.

Section F: Upon the election of the City Committeeman, a certificate of his election in duplicate shall be given to him, signed by the Ward Chairman and one other ward officer. The Ward Chairman and one ward officer shall also certify in duplicate the names, addresses and divisions of all of the newly elected officers and members of the Ward Committee. One of each of the said certificates shall be forwarded immediately to the City Committee Headquarters, and the other shall be given to the newly elected City Committeeman.

## ARTICLE 2 – Procedure in Organizing the City Committee.

Section A: On the fourth Wednesday succeeding the Primary Election at which the members of the Ward Committee were elected, at the place and hour designated by the then City Chairman, all persons who have been elected to represent a Ward in the City Committee shall meet at the place designated to organize the City Committee.

Section B: The City Chairman of the last preceding City Committee shall preside over the meeting called to organize the new City Committee. If he is not present on the day of the organization of the City Committee, the First Vice-Chairman shall preside. The person who shall preside shall appoint from those persons whose certificates he has received and against whom no protest has been filed, an acting secretary and two tellers.

**Section C:** The person presiding shall declare those persons whose credentials he has received for membership in the City Committee and against whom no contest has been filed, to be duly elected members of the City Committee. He shall then proceed with the further business of organizing the Committee. The Contest Committee shall make its report as to all contests referred to it. The members of the new City Committee, as constituted, may either accept or reject the report of the said Contest Committee. The acceptance or rejection of the report of the Contest Committee must be made separately on each and every contest. If the City Committee accepts the recommendation of the Contest Committee, the person or persons who have been recommended by the Contest Committee and, having received the requisite majority vote, are accepted by the City Committee, they shall then become duly qualified members of the City Committee. In the case of the refusal of the City Committee to accept the recommendations of the Contest Committee, in whole or in part, the City Committee shall have the right to elect to its membership a person to represent that ward.

**Section D:** Where a ward has failed to organize and no certificate of election of a City Committeeman from that ward has been certified to the City Committee, this shall be deemed a vacancy and not a contest. The matter shall be referred to the Organization Committee for the purpose of organizing the Ward Committee and supervising the election of a City Committeeman from that ward. The Contest Committee may decide that the organization of the City Committee shall proceed even though all contests have not been decided.

**Section E:** The City Committee shall then proceed to the nominations and election for the office of the City Chairman. Should there be more than one person nominated, the voting shall proceed in accordance with the rules hereinafter set forth. The tellers shall tabulate and record the votes as cast by the members. After the tellers have agreed, the presiding officer shall announce the results of the voting and declare the one who received a majority vote to be elected Chairman of the City Committee. The newly elected Chairman shall continue with the organization of the City Committee and the election of the remaining City Committee Officers as hereinafter set forth.

#### **RULE V**

#### **MEETINGS**

##### **ARTICLE I – Ward Committee Meetings.**

**Section A:** Regular meetings of the Ward Committee shall be held at least once a month at the time and place designated by the City Committeeman.

**Section B:** Special meetings of a Ward Committee shall be called as follows:

- 1) By the City Committeeman as circumstances may require, or
- 2) Upon petition filed with the City Committeeman signed by at least one-half the elected members of the Ward Committee having the right to vote.

##### **ARTICLE 2 – City Committee Meetings.**

**Section A:** Regular meetings of the City Committee shall be held at least ten (10) times yearly.

**Section B:** Special meetings of the City Committee shall be called as follows:

- 1) By the City Chairman, as circumstances may require.
- 2) Upon petition filed with the City Chairman, signed by at least one-half of the elected members of the City Committee having the right to vote.

**Section C:** Regular and special meetings of the City Committee shall be held at the place or places designated by the City Chairman, unless otherwise provided for by the City Committee.

**ARTICLE 3 – Notice of Ward and City Committee Meetings.**

Section A: Notice of meetings for the purpose of organizing the Ward Committees or the City Committee shall be given at least forty-eight (48) hours prior to the date of the meeting, and shall be in writing.

Section B: Notice of regular meeting of the Ward and City Committees is to be given in writing, at least forty-eight (48) hours in advance.

Section C: If a meeting must be called upon less than forty-eight (48) hours notice, notice may be waived by the vote of two thirds (2/3) of the enrolled membership, said vote to be taken at the meeting in question. Notices of all special meetings must specify the purpose or purposes for which the special meeting is being called and no other business shall be transacted at the said meeting, unless agreed to by a two-thirds vote.

Section D: Notices of all meetings are to be addressed to members at the addresses on the roll of the Committee, and the depositing of the notice in the mail or the delivery of the notices to a telegraph company, shall be deemed service of the notice. Time shall run from the time the notice is deposited in the mail or delivered to the telegraph company.

**ARTICLE 4 – Quorums.**

Section A: A quorum for all meetings, including meetings to organize Ward or City Committees, shall consist of one-half (1/2) of those enrolled as qualified members of the committee. The members present at a duly organized meeting may continue to do business until adjournment, even though a sufficient number shall have withdrawn as to leave less than a quorum. If a meeting cannot be organized because a quorum has not attended, those present may adjourn the meeting to such time as the City Chairman or City Committeemen shall determine. If a quorum is not in attendance at the second of such adjourned meetings, those in attendance, although less than the quorum affixed above, shall nevertheless, constitute a quorum for the purpose of proceeding with the business of the said meeting.

**ARTICLE 5 – Roberts Rules.**

All meetings shall be conducted in accordance with Roberts Rules of Order.

**RULE VI**

**COMMITTEES**

**ARTICLE I – Organization and Contest Committee.**

Within thirty (30) days after organization of the City Committee, the Chairman shall appoint from among the membership of the City Committee, an organization and Contest Committee. The Committee shall consist of three members and shall elect its own chairman. The chairman shall not appoint any individual to the contest committee against whom there is an undecided contest outstanding. (Reference in these Rules to "Contest Committee" or "Committee on Organization" refers to this Committee).

The members of the Organization and Contest Committee shall serve at the pleasure of the City Chairman.

**ARTICLE 2 – Functions of the Organization and Contest Committee With Respect to Organization.**

The Committee shall have referred to it, inter alia, and the following matters: (1) The organization of any Ward or the election of the City Committeeman from that Ward where the said Ward has failed to organize on or before the Monday preceding the Wednesday on which the City Committee is to be organized; in such case the Committee shall supervise the organization of the Ward Committee and the election of the City Committeeman and Ward officers; (2) All appeals from the action of the City Committeeman or any of the officers of the Ward Committee; (3) The Committee

shall have the right and authority, at the direction of the City Committee, to go into any Ward in order to advance the interest of the Republican Party or its candidates, and to make any investigation concerning the manner in which the City Committeemen and Ward Officers are conducting their meetings; (4) The Committee may, upon the instruction of the City Committee, go in and set up a new Republican organization in a ward.

Actions of the organization Committee shall not become operative until ratified by the City Committee.

#### **ARTICLE 3 – Policy Committee**

There shall be a Policy Committee which shall represent all segments of the Republican Party in Philadelphia, the duty of which shall be to formulate policy on public issues affecting residents of Philadelphia. All members of the Policy Committee shall be members of the Republican Party, registered to vote in Philadelphia. Representation on the Policy Committee shall come, inter alia, from the following groups or categories:

Elected public official and officials in their administrations

Republican City Committee

Business and Industry

Organized Labor

The Medical, Legal and other professions

Republican Women's Groups

Young Republicans

Independent Republicans

The Academic Community

Senior Citizens

There shall be an Executive Committee within the Policy Committee, to be selected by the Policy Committee itself. New members of the Policy Committee shall be selected by the Executive Committee of the Policy Committee. The first Policy Committee after the adoption of these Rules shall be selected by the Executive Committee of the existing Policy Committee. At least one-half (1/2) of the membership of the Policy Committee shall come from outside the membership of the Republican City Committee and Ward Committees. The Chairman of the Policy Committee shall be elected by the Committee upon recommendation of its Executive Committee.

#### **ARTICLE 4 – Other Committees.**

The City Chairman shall appoint such other committees as are necessary for the efficient conduct of the City Committee.

### **RULE VII**

#### **CONTESTS**

##### **ARTICLE 1 – Procedure for Filing Contests Concerning Ward or City Committees.**

Section A: All contests pertaining to the election of members of the Ward Committees, ward officers and members of the City Committee shall be filed with the City Committee and referred by it to the Organization and Contest Committee.

Section B: All contests shall be instituted by the filing of a petition which shall contain the following:

1) The name, address, ward and division of the petitioner(s) and the person or persons against whom the petition is filed;

2) A short, plain statement of the facts upon which the petition is based;

The Petition shall be signed by the petitioner, the petitioner shall cause to be served upon the person

or persons against whom the petition is filed a true and correct copy of the petition. Service shall be either in person or by mail to the address where said person is registered to vote.

In the case of contests for membership in the Ward Executive Committee, a copy of the petition must be served upon the City Committeeman.

Failure to make service upon the person against whom the petition has been filed shall constitute grounds for the dismissal of the contest.

Section C: The party against whom the contest had been filed may make an answer in writing to the charge of the contest petition, although he need not do so. Answers should be filed with the City Committee and a copy of same must be filed upon the petitioner, and in the case of contests concerning membership in the Ward Executive Committee, upon the City Committeeman.

#### **ARTICLE 2 – Procedure for Determining Contests Concerning Ward or City Committees.**

Section A: All contest petitions shall be promptly heard by the Contest Committee. In all cases a contest shall be heard within seven (7) days of its filing. The Contest Committee shall give at least twenty-four (24) hours notice in writing of the time and place of the hearing to the petitioner and all persons against whom the contest has been filed, and in cases of contest for membership in the Ward Executive Committee, to the City Committeeman from the ward involved.

Section B: At the contest hearing, the Contest Committee shall hear the presentation of evidence by all parties to the contest. The rules of evidence shall be liberally construed. All parties shall have the right to be represented by counsel and shall have the right to cross-examine opposing witnesses. The Contest Committee shall have the right to call its own witnesses and may also limit the number of witnesses to be called either party.

Section C: The Contest Committee shall determine each contest within three (3) days after completion of the hearing. It shall make a separate recommendation to the City Committee of its findings in each of the contests heard by it. The finding of the majority of the members shall be the findings of the committee; however, the minority may write a separate report of its findings and recommendations.

Section D: In the case of a contest involving membership in the Ward Committee, the decision of the contest committee shall be final.

In all other cases the findings and recommendation of the contest committee shall be submitted to the City Committee for final approval.

Section E: In the event none of the parties filing the contest appear at the time set by the Contest Committee for the hearing, it shall be deemed that the contest petition has been withdrawn. Should the party against whom the contest has been filed fail to appear, the Contest Committee may proceed with the hearing of the contest, and make findings accordingly. Failure of the contested party to appear will not be considered as an abandonment of his or her right to be seated in the committee, or to hold the office contested, or as an admission of the accuracy and truthfulness of the statement contained in the contest petition.

Section F: The sole matter to be decided in a contest is validity of the election.

#### **RULE VIII**

##### **RECALL**

#### **ARTICLE 1 – Procedure on Recall of City Committee Officers.**

Section A: The proposed recall of the City Chairman or other City Committee officers, must be initiated by the filing of a petition.

Section B: The petition must contain the name of the officer whose recall is sought and a detailed statement of the specific charges and grounds for the recall. The recall petition must be signed by at least two-thirds (2/3) of the enrolled membership of the City Committee, and must be sworn to

before a person authorized to administer oaths.

Section C: In the case of the proposed recall of a City Chairman, the petition shall be filed with the First Vice-Chairman of the City Committee. In the case of proposed recall of other officers the petition shall be filed with the City Chairman. A true and correct copy of the petition shall be served upon the person whose recall is being sought within forty-eight (48) hours after the filing of the petition. Service shall be either in person or by certified mail. The person against whom the petition has been filed shall have the right to make an Answer in writing to the petition for recall. Answers shall be filed with the City Committee.

Section D: The City Chairman or the First Vice-Chairman, with whom the petition for recall may have been filed in accordance with these Rules, shall call a special meeting of the City Committee not less than seven (7) days, nor more than fourteen (14) days after receipt of the petition, for the purpose of acting on the petition for recall.

Section E: All of the enrolled member of the City Committee shall be given at least seventy-two (72) hours' notice of the special meeting to be held to consider the petition for recall. Said notice shall set forth the purpose of the meeting, and the date, time and place of holding the meeting.

Section F: The following procedure shall be followed at the recall meeting:

- 1) The City Chairman or the First Vice-Chairman, as the case may be, with whom the petition has been filed, shall preside over the meeting.
  - 2) It shall be the duty of the City Chairman or the First Vice-Chairman, as the case may be, to have the Secretary call the roll of the membership of the committee, record those present, read the call of the special meeting, and, after its adoption, to proceed on the question of the recall.
  - 3) One of the signers of the petition shall present the (alleged) reasons why the person named in the petition should be recalled and his office declared vacant.
  - 4) The person whose recall is being sought shall then be heard in his own defense if he desires to be heard.
  - 5) In the case of a proposed recall of a City Chairman, after hearing the pros and cons on the subject, and debate having been closed, if two-thirds (2/3) of the enrolled membership of the City Committee are not then present, the presiding officer shall not proceed in order with the recall, but shall declare the recall to be lost, due to the failure of two-thirds (2/3) membership of the Committee to be present.
- Section G: In the case of other City Officers and Committeemen, this procedure shall also be followed, with the exception that there must be at least fifty-one (51%) percent of the membership present instead of two-thirds (2/3) in order to proceed with the recall.

Section H: The presiding officer shall inquire from the person sought to be recalled whether he desires to appoint a teller to assist in the tabulation of the vote. He shall also inquire of the spokesman for the petitioners for recall the name of a teller to assist in the tabulation of the vote. This being done, he shall appoint the persons named by both parties as tellers to co-operate with the Recording Secretary in the tabulation of the vote.

Section I: At the conclusion of the discussion, the presiding officers shall put to the meeting the following question:

"Shall (name of the person being sought to be recalled) be recalled and his office (the office he holds) be declared vacant?"

and advise the members that a vote in the affirmative is a vote for the recall and for declaring the office vacant, and that a vote in the negative is a vote against the recall and against declaring the office vacant.

Section J: The presiding officer shall then proceed with the voting by having the Secretary call the

roll and recording the vote in accordance with rules set forth for voting. If the vote for recall is affirmative, the office in question shall then be declared vacant.

#### **ARTICLE 2 – Procedure on Recall of Ward Officer or City Committeeman.**

The procedure for recall of a Ward Officer or City Committeeman shall be the same as for the recall of City Committee Officers with respect to the requirements of the petition, the procedure for filing and serving the petition, and calling and serving notice of the meeting, procedure at the recall meeting and all other procedural matters with respect thereto. Section G of ARTICLE ONE of the RULE (VIII) shall apply with respect to the number of members of the Committee who must be present in order to proceed with recall.

In applying the language of ARTICLE I of the RULE to the recall of Ward Officers and City Committeemen, where the term “City Committee” is used it shall be deemed to be referred to the Ward Committee and where the term “City Chairman” and “First Vice-Chairman” are used they shall be deemed to refer to the City Committeeman and Ward Chairman respectively.

The proceeding for recall of Ward Officers shall be conducted by and before the Ward Committee. However, in such cases, a copy of the recall petition must also be filed, promptly with the City Committee.

#### **ARTICLE 3: Appointed Officers.**

Appointed officers are not subject to recall.

#### **RULE IX**

#### **VACANCIES**

#### **ARTICLE I – Method of Filing Vacancies for Nominations on the Republican Ticket and Making Nomination Special Elections.**

Section A: Vacancies existing or happening on the Republican Ticket after the date of a Primary Election, and nominations for candidates to be voted for at special elections to fill vacancies when under the Election Code of 1937, as amended, a Primary nomination impossible, shall be filled as follows:

- 1) In the case of county and city officials and delegates to the national convention, the vacancies shall be filled by the City Committee;
- 2) In the case of members of Congress, State Senators, State Representatives, (where the district comprises more than one Ward), City Councilmen, members of the State Committee, and any other office(s) for which the District comprises more than one Ward but less than the County or City, the vacancy shall be filled by a caucus of the City Committeemen of the District where the vacancy exists or happens;
- c) In the case of State Representatives, Constables and other candidates where the district is composed of one ward, the vacancy shall be filled by the Ward Committee of the ward comprising the district.
- d) In the case of a vacancy involving a district of a single division (such as election officers), then the vacancy shall be filled by the Committeemen from the division in question. In the event of a deadlock between them, the City Committeeman of the Ward of which the division is a part shall break the tie.

Section B: Caucuses of the City Committee and of Districts comprising more than one ward shall be called by the City Chairman. Caucuses of a single ward shall be called by the City Committeeman of that Ward.

Section C: Members of all caucuses under this Rule shall be given forty-eight (48) hours written notice of the time, place and purpose of the caucus by the person calling the caucus.

Section D: 1) At caucus meetings of the City Committee, the City Chairman shall preside. At caucus meetings of a single ward the City Committeeman of that ward shall preside.

2) At caucuses of Districts comprising more than one ward, the City Committeeman from the ward which at the last preceding municipal or general election polled the highest number of Republican votes, shall temporarily preside. He shall appoint a temporary secretary and two temporary tellers. He shall next cause a roll call to be made by the secretary who shall record those present from the various wards. He shall then call for the nomination of a permanent Chairman. The nominations having been made, the temporary Chairman shall proceed to conduct the election of a permanent chairman to preside over the joint meeting. The voting shall be in accordance with these Rules.

Section E: After the determination of the permanent Chairman, said Chairman shall immediately take office and preside, and shall appoint a permanent secretary and any other officers necessary to conduct a meeting, including permanent tellers.

Section F: The caucus having been organized, the meeting shall proceed to select the person or persons to be the candidate(s) of the Republican Party at the election in question. A certificate shall be issued and delivered to the Chairman of the meeting to be filed with the City Chairman, showing the name, address and occupation of the person or persons selected at the meeting and the names of the persons participating in the caucus, also designating the chairman and secretary thereof. This certificate shall be signed by the Chairman and secretary of the caucus.

Section G: In the case of vacancies to be filled by the City Committee, the City Chairman if not a City Committeeman may not vote except to break a tie. In the case of Vacancies to be filled by a Ward Committee, the City Committeeman, if not an elected division committeeman, may not vote except to break a tie. Where a caucus in any District, whether or not it is comprised of more than one ward, is deadlocked, the City Chairman (if he has not already voted) shall have the right to vote to break a tie.

#### **ARTICLE 2 – Method of Filling Vacancies in the Ward Committee and City Committee, Including Officers.**

Section A: Vacancies in the Ward Committee shall be filled by appointment by the City Committeeman for the unexpired term.

Section B: Vacancies in the City Committee shall be filled by appointment by the City Chairman for the unexpired term.

Section C: Vacancies among officers in the Ward and City Committees shall be filled by the Ward or City Committee as the case may be, at a regular or special meeting, except that a vacancy in the office of City Committeeman or City Chairman may not be filled except upon forty-eight (48) hours written notice to all members of the applicable committee of the time, place and purpose of the meeting.

Section D: In the event of a vacancy occurring in any party office, the next officer in line shall act until the vacancy is filled.

#### **ARTICLE 3 – Time for filling Vacancies in Ward and City Committees, including Officers.**

All vacancies shall be promptly filled. At the latest, they shall be filled within thirty (30) days after the vacancy has occurred.

#### **RULE X**

#### **VOTING**

Voting on all questions and motions shall be by roll call vote, or by Ayes and Nays.

#### **RULE XI**

#### **PROXIES**

Proxies will not be permitted, except that the Ward Chairman may represent the City Committeeman

at a meeting of the City Committee.

#### **RULE XII**

#### **REVISION AND SUSPENSION OF THESE RULES**

##### **ARTICLE I – Revision of Rules.**

These Rules may be revised at any time by action of the City Committee. Prior to such action, however, the Chairman shall give twenty (20) days notice of a special meeting called to act upon any such revision. A two-thirds (2/3) vote shall be required to effect a revision of the Rules.

##### **ARTICLE 2 – Suspension of Rules.**

Any rule or rules may be suspended at any meeting of the City Committee by an affirmative vote of two-thirds (2/3) of the members present.

#### **RULE XIII**

#### **EFFECTIVE DATE**

After adoption by the City Committee, these Rules shall become effective on the third Monday, after the 1966 primary Election.



**"Peter J. Wirs"**  
<pjwirs@peterjwirs.com>  
09/05/2006 11:25 AM

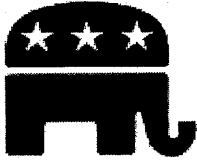
To arothstein@fec.gov  
cc  
Subject Re pending AOR from 59th Republican Ward Executive Committee

Amy - we reduced to writing what we thought were the salient points in response to your inquires, so that there is a record, etc. of what we said. If I can be of any further help don't hesitate to contact me. Thanks.

**Hon. Peter J. Wirs**  
*Chairman*  
**59th Republican Ward Executive Committee - City of Philadelphia**  
6145 Germantown Ave.  
Philadelphia, PA 19144-2047  
215-843-5900  
Fax 801-740-8676



PJWirs@peterjwirs.com Reply for FEC AO Information.pdf



## 59th Republican Ward Executive Committee

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6145 Germantown Avenue • Philadelphia PA • 19144-2147 • 215-843-5900  
Joseph L. Messa, Esq., Ward Leader • Hon. Peter J. Wirs, Chairman

Lawrence Norton, Esq.  
Federal Election Commission  
Office of the General Counsel  
999 E Street, N.W.  
Washington, D.C. 20463

Attention: Amy Rothstein, Esq.

### RE: REPLY FOR INFORMATION RE ADVISORY OPINION

Dear Attorney Norton:

We reduce to writing various comments in our Thursday, August 31, 2006 telephone conference call for purposes of a record and clarification.

#### **The Downward Spiral of the Philadelphia Republican City Committee**

It is appropriate to affix the proper frame of reference, so that it is clearly understood that the Philadelphia Republican City Committee is in downward spiral, thus negating comparisons relative the atypical model one would conventionally expect.

1. Since 1951, the City Republicans have won only 13 or 4.2% of 304 competitive municipal election races (excluding the one City Commissioner and the two at large City Council seats guaranteed to minority representation).
2. Republicans are the majority in only one of the 66 Philadelphia wards.
3. Republicans trails independents and minor party registrants in 30 or 45% of all 66 Wards, and in an additional five wards, the difference between Republicans and independents is statistically even.
4. There is no elected Republican committee person in 1,034 or 61.5% of the City's 1,681 divisions (election precincts), as compared to only 85, or 5% of all divisions not having an elected Democratic committee person, after the May 16, 2006 Primary election (in Pennsylvania, party offices are elected in primaries).
5. There is no elected Republican committee person in 9 or 13% of the City's 66 Wards.
6. There is no Republican committee person in half of the divisions within 22 or 33% of the 66 Wards, and only 11 Wards have Republican Committee persons in at least 75% of the Divisions within the Ward.
7. In the past primary only 1,114 filed, and 1,031 were elected as Republican committee persons, 35% of 3,286 candidates and 2,911 elected as Democratic committee persons.

8. Based on the latest 2006 campaign finance reports filed with the Secretary of the Commonwealth, the Philadelphia Republican City Committee, raised \$80,551 or 20.96% of the \$384,142 the Philadelphia City Democratic City Committee raised.
9. Based on the year ending annual campaign finance reports for 2005, (which in Pennsylvania are aggregate sums) City Republicans raised \$24,353 or 6.67% of the \$364,991 the City Democrats raised. The City Republicans spent \$19,686 or 6.22% of what \$316,072 the City Democrats spent.
10. Based on the year ending annual campaign finance reports for 2004, City Republicans raised \$49,616, or 9.34% of City Democrats' \$530,961; and City Republicans spent \$35,866 or 9.13% of the City Democrat's \$392,539,
11. Based on the year ending annual campaign finance reports for 2003, City Republicans raised \$364,185 or 44.37% of the Democrats \$820,623; and the City Republicans spent \$259,353 or 48.76% of the \$531,888 the City Democrats spent.
12. Over the past three years, City Democrats outspent City Republicans by a 10 to 1 ratio.
13. In the past year, City Democrats outspent City Republicans by a 15 to 1 ratio.
14. The Republican City Committee fund raising has declined 94% from the 2003 amount of \$364,185 to the 2005 amount of \$24,353.
15. The Philadelphia Republican City Committee fund raising per capita is \$.03, which is the lowest of all 40 Republican county committees who filed an annual report in 2005, and equaled one and trailed the remaining 23 Democratic county committees
16. The Republican City Committee fund raising per capita is 7% of the statewide average for all Republican county committees of \$.42 fund raising per capita.
17. The Republican City Committee fund raising per capita is 27% of the statewide average for all Democratic county committees of \$.11 fund raising per capita.
18. The Republican City Committee fund raising per capita is 9.6% of the statewide average for all Democratic and Republican county committees of \$.31 fund raising per capita.
19. Based on the 2005 post-campaign finance reports, City Republicans spent 0 funds for street money (which is statutorily authorized under the Pennsylvania Election Code, 25 P.S. § 2687(c), and limited \$120 per diem). The City Democrats spent \$258,825.
20. Based on the 2004 post-campaign finance reports, City Republicans spent for street money \$70,000 or 24.34% of the City Democrats' \$287,558.
21. Based on the 2003 post-campaign finance reports, for street money the City Republicans spent \$86,550 or 18.50% of the City Democrats' \$467,749.
22. Collectively, over the past three years, City Republicans spent \$156,550 on street money, which is only 15.43% of the \$1,014,132 the City Democrats spent on street money.
23. City Republican street money paid to the 59th Republican Ward Leader fell from \$1,000 in 2003, \$400 in 2004, to \$0 in 2005; whereas the 59th Democratic ward counterpart received \$6,250 in 2003, \$2,500 in 2004, and \$3,250 in 2005.
24. Accordingly, the 59th Republican Ward Leader got only 16% of what the 59th Democratic Ward Leader or executive committee got in 2003 and 2004, and 0% in 2005.

25. Over the past three years, the 59th Republican Ward committee persons received \$1,400 or 11.66% of the \$12,000 the 59th Democratic Ward committee persons received.
26. Based on the 2003, 2004 and 2005 campaign finance reports, City Republican street money paid to the combined northwest Philadelphia ward leader, encompassing 9th, 10th, 12th, 21st, 22nd, 50th and 59th Wards, went from \$9,050 in 2003, \$5,900 in 2004, to \$0 in 2005; whereas the City Democratic street money paid to the aforementioned wards leaders or executive committees was \$47,750 in 2003, \$17,510 in 2004, and \$25,000 in 2005
27. Accordingly, the northwest Republican wards received only 18.95% of what the Democrats received in 2003; 33.69% of what the Democrats received in 2004, and 0% of what the Democrats received in 2005.
28. Over the past three years, the northwest Republicans received only 16.56% of the northwest Democrats received in street money.

As we telephonically noted, despite spending \$538,304.91 in 2005, \$ 1,417,801, in 2004, and \$ 1,656,729.21 in 2003, the Pennsylvania State Republican Committee made no contributions to the undersigned or any other district or local committee, according to its campaign finance reports.

#### **Information regarding GOTV**

We also reiterate information relative the Get Out the Vote ("GOTV"). The salient point is what we contemplate is nothing new. Traditionally, GOTV efforts were the exclusive domain of local and district political party committees, candidate committees' intrusion, albeit the annoying dinner phone call, is a recent phenomenon. The remarkable attribute, if any, is merely our employment of software and online voter databases, provided in our case by Aristotle, Inc. (nation's leading such campaign service vendor) for voter identification, 11 CFR 100.24(a)(4), a function once satisfied by the institutional memory resulting from longevity of committee persons' service and then GOTV, as defined under 11 CFR 100.24(a)(3), on Election Day.

We are authorized under the Pennsylvania Election Code, 25 P.S. § 2687(c), to make payments up to \$120 per diem to "poll watchers." We have not asked the Commission in our AOR whether such is within the "travel and subsistence or customary token payments" allowance to volunteers under 11 CFR 100.87(d), since we presume that state law governs in the absence of specifically delineated preemption under the applicable Federal statute.

#### **Payment for Vice Presidential Expenses**

We also believe that expenses incurred relative security, etc., for a potential Vice Presidential attendance to the Oktoberfest of Germantown event would be held as a contribution under 11 CFR 100.53, notwithstanding the mandatory nature of such expenses or that the Vice President is not a candidate, since a Vice Presidential visit, if any, would be in substantive part, to benefit a Federal candidate(s). Security expenses commonly associated with a presidential or vice-presidential visit includes installation of additional, dedicated telephone lines, and closing of ancillary passages, etc.

Tuesday, September 5, 2006 Reply to Information re Advisory Opinion by  
59th Republican Ward Executive Committee  
Page 4 of 4

**Responses to Anticipated Objections**

Anticipated objections to our AOR will be predicated on material fallacy through omission of one of the two controlling premises. See Aldisert, LOGIC FOR LAWYERS, A GUIDE TO CLEAR LEGAL THINKING (3rd ed. 1007) at pp.167-168; Schlag and Skiver, TACTICS OF LEGAL REASONING (1986) at 16. Regardless whether a donor can make a \$10,000 contribution under 11 CFR 110.1(c)(5) to more than one political party entity, still will not exempt the donor from the biannual campaign contribution limit. 2 U.S.C. § 441a((a)(3), 11 CFR 110.5(b). Conversely, granting a district or local committee independent status under 11 CFR 110.3(b)(3) does not decrease the amount the state or city/county committee is otherwise entitled to under 11 CFR 110.1(c)(5). Accordingly, any anticipated objection to our AOR is merely a material fallacy.

To the contrary, for the Commission to recognize what the Pennsylvania courts have long recognized, that a district or local committee is "independent" of its state (or city/county) political party committee, in actuality fosters the public policy remedy to which McCain-Feingold envisioned, being both the "general participatory self-government objective," Breyer, OUR DEMOCRATIC CONSTITUTION, 77 N.Y.L.Rev. 245, 252 (2002), in addition to traditional anticorruption concerns under *Buckley v. Valeo*, 424 U.S. 1 (1976). See generally, Hasen, BUCKLEY IS DEAD, LONG LIVE BUCKLEY, 153 U.Pa. L.Rev. 31 (2004). Distributing campaign contributions to the lower end of the political party hierarchy — the district and local committee — not only dilutes the access and influence which a campaign contribution would otherwise obtain at the higher end of the political party hierarchy, but enhances citizen participation in the democratic process.

We hope that memorializing the various points of the aforementioned telephone conference call further enhances the Commission Advisory Opinion process. Thank you very much for your consideration in this matter.

Respectfully



Chairman

cc: State Republican Committee counsel  
File

